THE MATÁDÁRS ACT, 1887.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
   Extent.
   Commencement.
2. Definitions.
   Expressions defined in the Bombay Land-revenue Code.
3. Modifications of Bombay Act III of 1874.
4. Construction.

Of the Register.

5. Matádárs' service register what to contain.
6. Right to patel's office to appertain ordinarily to every matádár family; but exclusive right may be declared by Government to appertain to one matádár family.
7. Determination of matádárs.
8. Determination of representative matádárs.
9. Name of heir to be registered when a matádár dies.
10. Amendment of the register.

Of Service.

11. Duties and privileges of matádárs, as such.
12. Area to which matádárs' functions extend may in certain cases be reduced.
13. Number of officiators requisite for patel's office to be fixed by Collector.
14. Right to office to vest in representative of families whose rights declared.
15. In every other case right of office to be enjoyed by matádár families in rotation.
16. Determination of order of rotation.
    On failure of majority of matádárs to agree, Collector to determine order by lot.
    Proviso.
17. When officiator may be elected by matádárs.
    Failing election of officiator by matádárs, right of office to vest in representative matádár.
18. Rules for elections to be prescribed by Government.
19. Representative matádár must ordinarily officiate in person.
    On refusal by one representative matádár to officiate in person, turn to enjoy right of office to pass.
    Other employment when prohibited to representative matádárs.
    Failure to reside in village.

SECTIONS.

20. When deputy may be appointed by representative matádár.
Removal of deputy.
21. Procedure when appointment of deputy has to be made by representative matádár.
22. Appointment of deputy when to be made by Collector.
Such deputy ordinarily to be member of matádár family; but with sanction of Government may be any other person.
23. Guardian may act on behalf of matádár legally incompetent.
24. Term of office of sole representative matádár; and of an elected officiator.
25. Term of office of representative matádár entitled to office on failure of election.
26. Deputies to be appointed for period of their principal's term of office.
27. No change of officiator to be permitted during last year of representative matádár's term of office.
If occasion arises for any such change, office to be deemed vacant.
28. Appointment of temporary officiators by Collector.
29. Officiators to retain substitutes during their absence or illness.

Of the Disqualifications for the Patel's Office.

30. What persons to be deemed disqualified for office.

Of Penalties.

31. Punishment of matádárs and officiators by fine, and of officiators by suspension or removal from office.
Disabilities of representative matádár removed from office.
Forfeiture of life-interest of representative matádár in case of removal from office.
32. Liability of officiator to criminal prosecution and suspension pending enquiry and trial.

BOMBAY ACT No. VI OF 1887.[1]

[*30th January, 1888.*]

An Act to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.

Preamble.

WHEREAS some portions of the [2] Bombay Hereditary Offices Act are found to be unsuited to matádárs, and it is, therefore, expedient to amend the Bom. III of 1874.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1884, Pt. V, p. 44; for Reports of the Select Committee, *see ibid*, 1885, p. 39, and *ibid*, 1887, p. 195, and for Proceedings in Council, *see ibid*, 1885, p. 27, *ibid*, 1886, p. 94, and *ibid*, 1887, pp. 205 and 219.

[2] *Supra*, p. 521.

said Act and to enact special provisions for the regulation of the service of matádárs; It is enacted as follows :—

Short title. 1. This Act may be cited as the Matádars Act, 1887.

Extent. It extends to the districts of Ahmedabad, Kaira, Broach and Surat; but the Governor in Council may, from time to time, by notification in the Bombay Government Gazette, extend its provisions to any village in the Pánch Máhals District.

Commencement. It shall come into force at once: Provided that every appointment to any patel's office to which this Act applies, made under the provisions of the Bom. III of 1874. [1] Bombay Hereditary Offices Act, or of Act [2] No. XI of 1843 (*an Act for regulating the service of hereditary officers under the Presidency of Bombay*) and still in force, shall hold good—

(*a*) until the time when, if this Act had not been passed, such appointment would become vacant, or until the expiry of two years from the coming of this Act into force, whichever first occurs, or,

(*b*) in the case of an appointment which has been made to have effect pending further orders, until such time as the Collector directs;

and a fresh appointment under this Act in lieu of any such appointment as aforesaid shall only be made to have effect from the time when the latter appointment ceases to hold good.

Definitions. 2. In this Act, unless there be something repugnant in the subject or context,—

(*1*) " matádár family " means a family to which the office of village patel, or some share in the discharge of the duties or in the exercise of the powers ordinarily appertaining to that office, belongs hereditarily :

(*2*) " mátá " means the aggregate of the rights, privileges and responsibilities vesting in a matádár family as such :

(*3*) " member of a matádár family " does not include a female, or a person claiming through a female, whilst such female or person is, under section 2 of [3] Act No. V of 1886 (*an Act to amend Bombay Act III of 1874*), postponed in the order of succession to the mátá, or part thereof or interest therein, to a male member of the family;

(*4*) " matádár " means a member of a matádár family whose name is entered in the register kept under section 5, and includes a representative matádár;

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[1] *Supra*, p. 521.
[2] Act 11 of 1843 is repealed by Bom. Act 3 of 1874.
[3] That is Bombay Act 5 of 1886, *supra*, p. 862.

(*5*) "representative matádár" means a member of a matádár family whose name is entered as a representative matádár in the said register;

(*6*) "senior heir" means the heir who first acquired the right of inheritance, whether by birth, marriage or otherwise;

Expressions defined in the Bombay Land-revenue Code.

(*7*) any word or expression which is defined in the [1]Bombay Land-revenue Code, 1879, and is not hereinbefore defined, shall have the meaning given to it by that Code. Bom. V of 1879.

Modifications of Bombay Act III of 1874.

3. In applying the [2] Bombay Hereditary Offices Act as amended by [3] Bombay Act No. V of 1886 (*an Act to amend Bombay Act III of 1874*). and section 2 of the last-mentioned Act, to matádárs, the term "wátán" shall be deemed to mean all and each of the mátás of a village, and a member of a matádár family shall be deemed to be a wátándár, and the said Act, as so amended, shall be read subject to the following modifications, namely:— Bom. III of 1874.

(*1*) sections 24 to 31, both inclusive, 36 to 59, both inclusive, 61, 62, 67, 69, 71, and clause (2) of section 73, and so much of section 73 as relates to orders passed under Part VI or Part VII or section 58 of the said Act, and in section 4 the definitions of "wátándár" and "representative wátándár," shall be deemed to be repealed;

(*2*) in sections 33 and 34, the words "coming into force of this Act" shall be taken to mean the coming into force of this present Act, and the word "matádár" shall be substituted for the words "registered representative wátándár" and "wátándár" wherever they respectively occur:

(*3*) for the first four words of section 60, the words "when any person elected to officiate or a representative matádár" shall be deemed to be substituted.

Construction.

4. Subject to the provisions of the last preceding section, this Act shall be read as one with the [2] Bombay Hereditary Offices Act. Bom. 1874.

Of the Register.

Matádárs' service register what to contain.

5. In the register of lands and allowances in consideration of which liability to perform service still exists, kept under section 65 of the [2]Bombay Hereditary Offices Act the Collector shall specify for every village in which there are matádárs:— Bom. III of 1874.

(*a*) the number of distinct matádár families in the village separately recognized in the Collector's records;

[1] *Supra*, p. 631.
[2] *Supra*, p. 521.
[3] *Supra*, p. 862.

(*b*) the name of the representative matádár of each matádár family to which a right to hold the office of patel appertains ;

(*c*) the name of every other person directed by the Collector to be entered in the register under section 7 or 9 ;

(*d*) where there are more representative matádárs than one, the order of rotation in which, failing the appointment of an officiator by election, the right to the patel's office is to vest in the said representative matádárs ;

(*e*) the number of persons required to officiate as patels contemporaneously ;

(*f*) a description of the service lands held by each matádár family, showing the area, survey numbers and the assessment thereof, together with the quit-rent, if any, payable, and the net amount of revenue alienated by Government ;

(*g*) the amount and nature of the cash or other allowances, if any, held by each matádár family ;

(*h*) the wátán property or profits assigned under section 23 of the [1] Bombay Hereditary Offices Act for the emoluments of officiators ;

Bom. III of 1874.

(*i*) such other particulars as Government from time to time direct.

The said register shall be amended from time to time whenever any change is made in any of the particulars therein specified in accordance with the provisions of this Act or of the [1] Bombay Hereditary Offices Act.

Bom. I of 1874.

Right to patel's office to appertain ordinarily to every matádár family; but exclusive right may be declared by Government to appertain to one matádár family.

6. In every village in which there are two or more distinct matádár families separately recognized in the Collector's records, a right to hold the office of patel shall ordinarily be deemed to appertain to each of the said families :

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office in any village, and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village appertains [2] [to one or more than one of such families to the exclusion of the remainder of such families, and shall vest in such order as he may thereby determine, and every such declaration shall be conclusive evidence of the rights thereby affirmed].

Determination of matádárs.

7. In the register prepared under section 5 the Collector shall enter the name of every member of a matádár family contained in any list of matádárs

[1] *Supra*, p. 521.

[2] These words were substituted for the words "exclusively to one mátádar family, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed" by the Matádárs Act Amendment Act, 1890 (Bom. Act 3 of 1890), s. 1, Vol. III of this Code.

9 in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the register to be amended accordingly.

Of Service.

Duties and privileges of matádárs, as such.

11. Every matádár shall be bound, when so required by the Collector, to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village-lands and revenues, and such other village-records as it may be customary for matádárs to sign.

Area to which matádár's function extend may in certain cases be reduced.

12. If within the limits of any village in which there are matádárs a new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

Number of officiators requisite for patel's office to be fixed by the Collector.

13. The Collector may fix at his discretion, from time to time, the number of officiators requisite for the due discharge of the duties of every patel's office.

Right to office to vest in representative of families whose rights declared.

[1] **14.** In every village in which the Governor in Council makes a declaration under section 6, the right to the office of patel shall vest to the exclusion of all other matádárs in the representative of each of the families whose rights are thereby declared, in such order as may therein be determined.

In every other case right of office to be enjoyed by matádár families in rotation.

15. In every other village the right to the patel's office shall vest in each of the matádár families entitled thereto in rotation.

Determination of order of rotation.

16. For the purpose of determining the order in which the said right shall vest in the said families, the Collector shall, as soon as may be after this Act comes into force, by written notice, require the matádárs of the village to assemble in his presence.

On failure of majority of matádárs to agree, Collector to determine order by lot.

If a majority of the matádárs present in accordance with the said notice do not agree to some order of rotation, the order shall be forthwith determined by the Collector by lot, in the presence of the assembled matádárs, in such manner as he shall think fit :

[1] This section was substituted by the Matádárs (Amendment) Act, 1890 (Bom. Act 3 of 1890), s. 2, Vol. III of this Code.
The original section ran as follows :—
"In every village in which the Governor in Council declares under s. 6 that the right to the patel's office appertains exclusively to one matádár family, the said right shall vest in the representative matádár family alone."

Proviso.

Provided that if, in the course of any proceeding held under the [1]Bombay Hereditary Offices Act, an order of rotation for service of the representative wátándárs of the same families has been already settled by lot or by agreement of the parties, the order so settled shall hold good for the purpose of the last preceding section. Bom. III of 1874.

When officiator may be elected by matádárs.

17. On or in anticipation of the occurrence of a vacancy in the office of patel in any village to which section 15 applies, the matádárs of the village may elect some member of the matádár family whose turn it is to enjoy the right of office to fill the vacancy.

Failing election of officiator by matádárs, right of office to vest in representative matádár.

If a majority of the said matádárs fail, within such reasonable period as shall be prescribed by the Collector in this behalf, to nominate some member of the matádár family aforesaid for the vacancy, or if the person nominated is disqualified for office, the right of office shall vest in the representative matádár of the said family.

Rules for elections to be prescribed by Government.

18. Elections under the last preceding section shall be held in accordance with such rules [2] as the Governor in Council, by notification in the Bombay Government Gazette, from time to time, prescribes in this behalf.

Representative matádár must ordinarily officiate in person.

19. Every representative matádár in whom the right of office vests under section 14 or 17 shall ordinarily be required by the Collector, if he is not disqualified for office, to officiate in person; but the Collector may, if he thinks fit, dispense with his personal service.

On refusal by one representative matádár to officiate in person, turn to enjoy right of office to pass.

If, in any village to which section 15 applies, the representative matádár of the family whose turn it is to enjoy the right of office declines, when so required by the Collector, to officiate in person, the turn to enjoy the said right shall pass to the matádár family next in the settled order of rotation.

Other employment when prohibited to representative matádárs Failure to reside in village.

A representative matádár who declines, whilst officiating, to forsake some other employment which, in the opinion of the Collector, is incompatible with the due discharge of the duties of the patel's office, or fails when so required by the Collector to reside in the village for which he is appointed, shall be deemed to decline to officiate in person.

When deputy may be appointed by representative matádár.

20. A deputy may be appointed at any time—

(*a*) by a representative matádár who is, or who whilst officiating in person becomes, disqualified for office; and

(*b*) with the Collector's permission, by a representative matádár who does not wish to officiate or to continue to officiate in person, although not disqualified for office; and

[1] *Supra*, p. 521.

[2] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 641 and 642.

(*c*) by a sole representative matádár, who proposes to officiate or is already officiating in person, when one or more other officiators are necessary.

Removal of deputy.

A deputy appointed by a representative matádár may at any time be removed from office by the Collector at the request of the representative matádár, if in the opinion of the Collector there are good reasons for such request.

Procedure when appointment of deputy has to be made by representative matádár.

21. When an appointment of a deputy has to be made by a representative matádár, the Collector shall, by written notice, require him to nominate a fit person to be his deputy within twenty days from the date of service of the said notice.

Should the representative matádár fail, within the said period, to nominate any person, or if the person he nominates is not a member of a matádár family of the same village, or is disqualified for office, the Collector may, in his discretion, extend the period of nomination for a further term of ten days.

If within the prescribed period of twenty days, or, when the Collector extends the period, within the extended term, no person is nominated by the representative matádár, or the person nominated by him is not a member of a matádár family of the same village, or is disqualified for office, the turn to enjoy the right of office shall, in a village to which section 15 applies, pass to the matádár family next in the settled order of rotation.

Appointment of deputy when to be made by Collector.

22. If a sole representative matádár declines, when so required by the Collector, to officiate in person, or fails to appoint a fit person to be his deputy in accordance with the provisions of the last preceding section, the Collector shall appoint a deputy.

Such deputy ordinarily to be member of matádár family; but with sanction of Government may be any other person.

A deputy so appointed by the Collector shall ordinarily be a member of the matádár family of the village for which he is appointed, but, with the previous sanction of Government, may be any other person.

Guardian may act on behalf of matádár legally incompetent.

23. If a matádár is under eighteen years of age, or if disabled by lunacy or imbecility of mind, the guardian or other legal curator of his person may act in his behalf in any of the matters provided for in sections 16, 17, 20 and 21.

Term of office of sole representative matádár, and

24. The term of office of a sole representative matádár shall be for life, if the representative matádár shall not in the meantime become disqualified for office.

of an elected officiator.

The term of office of a person elected under section 17 shall be for five years, or for such longer period as a majority of the matádárs shall, at the time of election, desire, if the person elected shall not in the meantime die or become disqualified for office.

The desire of the matádárs as to the duration of the term of office of any person elected by them under section 17 shall be ascertained in accordance with the rules prescribed under section 18 for determining nominations.

Term of office of representative matádár entitled to office on failure of election.

25. The term of office of a representative matádár in whom the right of office vests on failure of an election under section 17 shall be—

(*a*) five years, when the number of representative matádárs exceeds nine;

(*b*) seven years, when the number of representative matádárs exceeds four but does not exceed nine;

(*c*) ten years, when the number of representative matádárs does not exceed four.

Deputies to be appointed for period of their principal's term of office.

26. A deputy appointed by a representative matádár, or by the Collector in his stead, shall be appointed for the term, or for the residue of the term, of office of the representative matádár by or for whom he is so appointed; and, if a deputy dies or resigns or becomes disqualified for office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 21 and 22:

Provided that—

(*a*) if a representative matádár who has appointed a deputy because he himself was disqualified for office, or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector;

(*b*) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate and the successor of the representative matádár shall, subject to the provisions of section 19, officiate in person for the residue of the said term, or a deputy shall be appointed by him or by the Collector in his stead for the said period, according to the provisions of sections 20, 21 and 22.

No change of officiator to be permitted during last year of representative matádár's term of office.

27. Notwithstanding anything hereinbefore contained to the contrary, no representative matádár in any village to which section 15 applies shall be permitted to commence to officiate in person, and no new deputy shall be appointed by or for a representative matádár in any such village during the last year of the term of office of such representative matádár.

If occasion arises during any such year for any change of an officiator in any such village, there shall be deemed to be a vacancy in the office.

If occasion arises for any such change, office to be deemed vacant.

28. During any interval between the occurrence of a vacancy in a patel's office and its being filled up in accordance with the foregoing provisions, and during the time that any officiator is suspended, the Collector may appoint such person as he thinks fit, whether a member of a matádár family of the village or not, to officiate temporarily.

Appointment of temporary officiators by Collector.

29. If an officiator is temporarily absent from his village, or is temporarily prevented by illness from discharging the duties of his office, he may depute some other fit person, whether a member of a mátádar family of the village or not, to perform the said duties, but shall be responsible for the acts and omissions of the person so deputed as if they were his own acts and omissions.

Officiators to retain substitutes during their absence or illness.

Of the Disqualifications for the Patel's Office.

30. The following persons shall be deemed to be disqualified for the patel's office, namely:—

What persons to be deemed disqualified for office.

(*a*) females;

(*b*) persons under eighteen years of age;

(*c*) any person who has not passed such educational test, if any, as Government think fit, from time to time, to prescribe in this behalf;

(*d*) any person who has attained sixty years of age, except when such person's appointment or further continuance in office is specially permitted by the Collector;

(*e*) any person who, in the opinion of the Collector, is disabled by lunacy or imbecility of mind, or by deafness, blindness or other permanent infirmity of body;

(*f*) any person who, at the time when he would otherwise be entitled to officiate, is adjudged by the Collector, after a summary inquiry, to be of general bad character;

(*g*) any person who has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having subsequently been reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

(*h*) any person removed from office under section 31, except when such person's re-employment is expressly sanctioned by Government.

Any officiator who during his term of office becomes disqualified for any of the above reasons shall cease to officiate.

Of Penalties.

Punishment of matádárs and officiators by fine, and

31. Any matádár who shall neglect or refuse to comply with any order made by the Collector under section 11, and any matádár or officiator who shall be careless or negligent in the discharge of his duties, may be punished by the Collector, for each such offence, by fine which may extend to one-fourth part of the annual emoluments of such matádár or officiator.

of officiators by suspension or removal from office.

If an officiator shall be accused of any misconduct which shall seem to the Collector to require a severer punishment than that aforesaid, the Collector may suspend him from office during investigation into such accusation, and, after holding a summary inquiry, may, if he consider the officiator guilty of misconduct meriting such punishment, suspend him from office for a further period not exceeding six months, or, if fraud or wilful framing of incorrect records or other grave misconduct or offence is proved against him, may, with the previous sanction of Government, remove him from office.

Disabilities of representative matádár removed from office.

When a representative matádár has been so removed from office, he shall, if Government so direct, be deprived for the rest of his life of any right which he would otherwise have of voting at an election of an officiator, or of appointing a deputy to officiate; and, if any representative matádár so deprived is a sole representative matádár, a deputy shall be appointed by the Collector, subject to the provisions of paragraph two of section 22, to officiate in his stead during his lifetime.

Forfeiture of life interest of representative matádár in case of removal from office.

If any representative matádár or deputy is removed from office under this section, the Governor in Council may direct the forfeiture of the life interest in the matá of the representative matádár so removed from office, or of the representative matádár by whom the deputy so removed from office was appointed, as the case may be.

Liability of officiator to criminal prosecution and suspension pending inquiry and trial.

32. Nothing in the last preceding section shall affect the liability of an officiator to a criminal prosecution for any offence which he may be accused of having committed; and the Collector may suspend any officiator subjected to any such prosecution pending the inquiry and trial, and at its close may take the proceedings and the finding of the Criminal Court into his consideration for the purpose of dealing with the case under the last preceding section.